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NORTHERN DISTRICT OF CALIFORNIA

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MAY 13 2003

RICHARD W. WIEKING
CLERK U.S. DISTRICT COURT,
NORTHERN DISTRICT OF CALIFORNIA

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Attorneys for Plaintiff
AVIGEN, INC.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

AVIGEN, INC., a Delaware corporation,

Plaintiff,

v.

RESEARCH CORPORATION
TECHNOLOGIES, INC., a Delaware
corporation,

Defendant.

Case No. C02-0880 MMC

**STIPULATED DISMISSAL AND
[PROPOSED] ORDER**

**STIPULATED DISMISSAL;
[PROPOSED] ORDER**

Case No. C-01 1073 ADR PJH

McDERMOTT, WILL & EMERY
ATTORNEYS AT LAW
1400 PINE

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STIPULATION

The parties, desiring to settle this action and all asserted claims asserted herein, agree to a dismissal with prejudice all of the claims set forth in the complaint and counterclaim, except to the extent provided in the settlement terms sheet which is attached as Exhibit A, and incorporated by reference herein, and to waive any other claims that could have been brought in connection with the License Agreement, dated May 15, 1992, which is the subject of this lawsuit.

Dated: May 6, 2003

McDERMOTT, WILL & EMERY

By: 

RICHARD F. CAULEY
Attorneys for Defendant
RESEARCH CORPORATION
TECHNOLOGIES, INC.

Dated: May 6, 2003

COOLEY GODWARD LLP

By: 

BRIAN E. MITCHELL
Attorneys for Plaintiff
AVIGEN, INC.

[PROPOSED] ORDER

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated: MAY 13 2003

MAXINE M. CHESNEY

THE HONORABLE MAXINE M. CHESNEY
UNITED STATES DISTRICT COURT JUDGE

MPK 59226-1 044741.0034

STIPULATED DISMISSAL;
[PROPOSED] ORDER

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Case No. C-01 1073 ADR PSH

McDERMOTT, WILL & EMERY
ATTORNEYS AT LAW
WASHINGTON, DC

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Terms for Stipulated Order

The parties agree to enter a stipulated order as follows:

Paragraph 1

Dismissal with prejudice of the complaint and counterclaim, except to the extent provided in Paragraph 2, and waiver of any other claims that could have been brought in connection with the License Agreement, dated May 15, 1992.

Paragraph 2

This dismissal does not affect rights, if any, Avigen may attempt to assert at a later time in a separate proceeding regarding the invalidity or unenforceability of U.S. Patent No. 6,261,834B1 (and any co-pending applications, continuations, continuations in part, reexaminations, reissues, and divisionals thereof, and any foreign counterparts thereof, if applicable) in which case, this dismissal, to the extent it relates to alleged invalidity or unenforceability, shall be without prejudice and shall not affect such rights, if any, that may be asserted in any future proceeding or suit.

Paragraph 3

Each party to bear their own attorney fees and costs.

Paragraph 4

No press release relating to the terms of this stipulated order will be permitted.

Avigen, Inc.

By: 

Kenneth Chahine

Dated: 12 February 2003

Research Corporation Technologies

By: 

Timothy J. Reckart

Dated: February 12, 2003

APPROVED AS TO FORM:

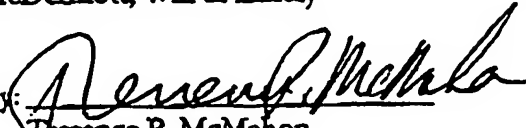
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Cooley Godward LLP

By: 
William G. Gaede III

Dated: 2/12/03

McDermott, Will & Emery

By: 
Terrence P. McMahon

Dated: 2-12-03

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CERTIFICATE OF SERVICE

The undersigned declares that:

I am employed in the County of Santa Clara, State of California. I am over the age of 18 and not a party to this action. My business address is: 3150 Porter Drive, Palo Alto, CA, 94306.

On the date set forth below, I caused to be served the attached **STIPULATED DISMISSAL AND [PROPOSED] ORDER** on the parties in the subject action by placing a true copy thereof as indicated below, addressed as follows:

William G. Gaede, III
Brian E. Mitchell
Cooley Godward LLP
One Maritime Plaza, 20th Floor
San Francisco, CA 94111-3580
Facsimile: (415) 951-3699

Roderick M. Thompson
Farella, Braun & Martel
Russ Building
235 Montgomery Street
30th Floor
San Francisco, CA 94104
Facsimile: (415) 954-4480

(XX) **BY U.S. MAIL:** I am familiar with our business practices for collecting and processing of mail for the United States Postal Service. Mail placed by me within the office for collection for the United States Postal Service would normally be deposited with the United States Postal Services that day in the ordinary course of business. The envelope(s) bearing the address(es) above was sealed and placed for collection and mailing on the date below following our ordinary business practices.

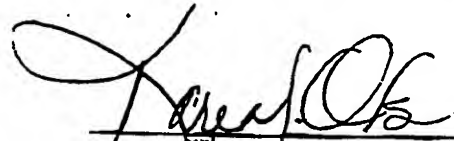
() **BY PERSONAL SERVICE:** I caused such envelope(s) to be delivered by hand on the office(s) of the addressee(s).

() **BY FEDERAL EXPRESS:** I caused such envelope(s) to be delivered to Federal Express for overnight courier service to the office(s) of the addressee(s).

() **BY FACSIMILE:** I caused a copy of such document(s) to be sent via facsimile transmission to the office(s) of the party(s) stated above and was transmitted without error.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: May 6, 2003


Karen J. Olsen